

REMARKS:

In response to the Office Action mailed on August 8, 2003, Applicant wishes to enter the following remarks for the Examiner's consideration. Claims 1-5 are pending in the application.

Specification

Applicant has amended the Abstract to make it a single paragraph.

Claim Rejections 35 USC §103

Claims 1-5 are rejected under 35 USC 103(a) as being unpatentable over Alexander et al. (US Pat. No. 5953009) in view of Jones (US Pat. No. 5258748) and Horvitz et al. (6021403). Applicant respectfully traverses this rejection.

With regard to the rejections under 35 USC 103 (a), Applicant would like to make the following arguments:

There is no teaching or suggestion in the art to combine the Alexander, Jones and Horvitz references.

The Applicant notes that Alexander teaches a system and methodology for use in a signal measurement system having a graphical user interface (abstract), while Jones teaches a calculating device and related method for accessing and selecting among multiple key functions with a minimum of keystrokes (abstract), and Horvitz et al. teach an event composing and monitoring system that allows high-level events to be created from combinations of low-level events (abstract).

The Applicant strenuously objects to the Examiners statement that it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Horvitz et al. in the combination of Alexander et al. and Jones by “coupling Horvitz’s help screen displaying function to Jones’s multi-key function controller in order to provide a system that can continually check for user competencies and base upon such competencies, change the assistance that is offered”. Even if the Examiner is correct, the Applicants claims 1-5 should not be limited to be interpreted as providing “a system that can continually check for user competencies and base upon such competencies, change the assistance that is offered”. This language is not used in any of claims 1-5.

Nevertheless, there is no teaching or suggestion in the art to combine the Alexander, Jones and Horvitz references. Alexander teaches on a signal measurement system, which is one art area. Jones teaches on a different area related to a calculating device and the access and selection multiple key functions with a minimum of keystrokes, which is a different area. Horvitz teaches an event composing and monitoring system that allows high-level events to be created from combinations of low-level events, which is not related to the signal waveform measurement system of Alexander or the art area of Jones. Horvitz further teaches an intelligent help system that uses Bayesian inference to determine a users most likely action and provide the corresponding help. The use of Bayesian and probabilistic methods to determine an amount of help to provide to a user are central to the teaching of Horvitz (col. 5-7) and are not directly or indirectly related to the signal measurement system of Alexander. There is no teaching or suggestion in Alexander, Jones, or Horvitz to combine these separate art areas to produce a method and apparatus to produce help screen information for measurement devices as in Applicants claims 1-5.

The Applicant notes that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). And there is nothing in the Alexander, Jones or Horvitz references that would suggest their combination.

The Horvitz reference is not analogous art, as it resides outside the art field of the Applicants claims 1-5.

The Applicant strenuously objects to the Examiner's inherent assumption that skills and knowledge required to develop the teachings of the method and system of Horvitz et al. would be within the set of skills commonly known in the art of designing help screens for measurement devices. The Applicant notes that Horvitz et al. is concerned with an intelligent help system for a software program (col. 7), and is not directed to a hardware or firmware application. Applicant asserts that there is no teaching or suggestion to combine Horvitz et al. with Jones and Alexander et al. since one of ordinary skill in the art at the time of the Applicant's invention would not have knowledge of the probabilistic and software tools required to develop the invention of Horvitz et al. Examiner has stated that the system of Horvitz et al. monitors user inputs and offers help when it determines that help is needed. Applicant notes that Horvitz et al. teaches determining if help is needed by the use of a Bayesian and probabilistic framework implemented in software (col. 3, 30-37, col. 5. 52-67). The Applicant maintains that Bayesian techniques are implemented in software and are not obvious to someone of ordinary skill in the art at the time of the Applicant's invention.

The Applicant notes that one of ordinary skill in the art is presumed to know of prior art in the field to which the invention pertains, but not to be aware of prior art outside that field and the field of the problem to be solved, i.e., nonanalogous art. Analogous art is art that is either in the field of the technology of the claimed invention or deals with the same problem solved by the claimed invention even though outside the field of technology of the invention... The CCPA held in *In re Wood*, 599 F.2d 1032, 202 USPQ 171 (CCPA 1979)

The development of an intelligent user assistance facility for a software program that is based upon Bayesian inference techniques and builds a reasoning model to compute the probability of a user's intentions (see col. 3, and cols. 5-7 of Horvitz) is not within the art related to the Applicant's claims 1-5. In light of the above argument

and discussion, reconsideration and allowance of claims 1-5 is requested at the Examiners earliest convenience.

The combination of Alexander with Jones and Horvitz is improper because the combination of Jones and Horvitz does not teach the elements of claims 1-5 that the Examiner has stated are not taught by Alexander.

The Applicant notes that, as also mentioned by the Examiner, Alexander et al. does not disclose the fourth, fifth and sixth elements of claim 1, 3 and 5. The Examiner further states that Jones teaches “a timer **function** coupled with a control panel for sensing duration of key activation during which a user activates a key of the plurality of keys of the control panel; and a controller coupled with the control panel and the timer **function** for initiating the respective operation of the measurement device in response to each key activation, when the duration of the key activation is less than a predetermined amount of time; wherein the controller is coupled with the display for displaying **a set of menu labels and assign a function associated with a displayed menu label to a menu key**, when the duration of the key activation is greater than the predetermined amount of time.”

The Applicant notes that the bold-faced elements in the previous quoted statement are not part of elements of claim 1, 3 or 5, and further notes that the timer, the control panel and the controller of the Applicant's claim 1, 3 and 5 is not taught, disclosed or otherwise rendered obvious by Jones, Horvitz, or the combination of Jones and Horvitz with Alexander. Thus, Applicant respectfully submits that the Examiner's comparison of elements of Applicant's claim 1, 3 and 5 and the teaching of Jones and Horvitz is inaccurate. The Applicant's claim 1, 3 and 5 does not recite a timer function, but a timer, which may be interpreted in many ways including a timer functionality or an electronic timer, for instance. Neither Jones, Horvitz nor the combination of Jones and Horvitz and Alexander teaches this presence of a timer. And, significantly, the Examiner has not noted with particularity where such teaching occurs.

The behavior of the controller in Applicants claims of “initiating the respective operation of the measurement device” is not taught, disclosed or otherwise obviated by Jones, Horvitz or the combination of Jones and Horvitz and Alexander. Jones does not even teach the use of a controller, as seen by the abstract and col. 2 lines 35-51 of Jones. Furthermore, not only is the keypressing behavior of Jones handled using software, there is no teaching within Jones of how said keypressing behavior would be handled using hardware or firmware components. And, significantly, the Examiner has not noted where such teaching occurs within the Jones or the Horvitz reference.

Also, the Applicant would like to note the use of the word “activation” in claim 1, 3 and 5. The activation of a key should not be limited to be read as the “pressing of a key” as taught by Jones (col 3, lines 27, 43, 47, 53). Jones only teaches pressing of a key, and not any other means of activation such as a toggle switch. The use of a two state activateable key is not taught by Jones, for instance, since Jones has more than two modes of operation depending on the duration of the key press (see col. 3 lines 41-42). The use of Horvitz does not cure this defect.

The use of the word “predetermined” in the Applicants claims as applied to the amount of time a key is activated is not taught, disclosed or otherwise obviated by Jones. Jones mentions a “nominal time” (col. 3, line 27), but does not teach that this amount of time is predetermined in any manner. And, significantly, Examiner has not noted where such teaching occurs within Jones. The use of Horvitz does not cure this defect.

In light of the above arguments and discussion, reconsideration and allowance of claims 1-5 is requested at the Examiners earliest convenience.

The combination of Horvitz with Alexander and Jones is improper because Horvitz actually teaches away from the Applicant’s claims 1-5.

As regards Horvitz, the Examiner states that Horvitz et al. teach a system and method for displaying help information for use with a software program with a graphical user interface. However, a reading of Horvitz indicates that Horvitz et al. is concerned with an event specification tool that creates high-level events from combinations of user actions (abstract). This event specification tool is based on Bayesian inference and probabilistic techniques as described in col. 7 lines 20-47 (that the Examiner referred to). Additional reading indicates that an application of this event specification tool is to an intelligent user assistance facility (cols. 5-7). The intelligent user assistance facility of Horvitz et al., monitors user inputs, infers user competency from a probabilistic model, and then offers help when it determines that help is probably needed (col. 11, lines 16-25). The only way a user can make a request for help information is by activating a help key. Otherwise, the computer monitors the user's attempts to operate the software program and estimates the probability of the user needing help.

In contrast, the user of a system of the Applicant's claims 1-5 explicitly requests help information by activating a key for longer than a predetermined time. There is no additional help key, and there is no probabilistic framework for deciding when help is to be offered. The user alone determines when help is needed, based upon the duration of activation of a key. Applicant notes in Applicant's claims 1-5, the duration of activation of a key is compared to a **predetermined** amount of time.

The Applicant stresses that the use of a predetermined duration of a key activity in the claims teaches away from the Horvitz et al. reference, since Horvitz et al. teaches the use of a probabilistic model to determine the likelihood of help being needed. Horvitz et al. does not sense the duration of each key activation but instead monitors user inactivity or hesitancy, i.e. the time between successive keystrokes (e.g. col. 7 lines 20-47, col. 9 lines 19-28, col. 14 lines 27-32, col. 15 lines 40-49, and col. 56-67). In the Applicant's claims 1-5, a specific user action based upon a predetermined duration of a keypress causes the help screen to be displayed. The user must hold down a key for a specified duration. The system and method of claims 1-5 operates in a deterministic manner rather than a probabilistic manner, which is in opposition to the teaching of Horvitz et al.

In light of the foregoing arguments and discussion, Applicant respectfully submits that even if one were to combine the Horvitz, Jones and Alexander references in the manner suggested by the Examiner, the result would not be the claimed invention. And even if Horvitz et al. is combined with Alexander et al. and Jones, the previous defects of Alexander and Jones are not cured. And furthermore, the Horvitz reference, which does not teach on a hardware or firmware implementation of an intelligent help system, is not applicable to the Applicants claims wherein a controller, timer, control panel and display element interact to display help screen information. In light of the above arguments and discussion, reconsideration and allowance of claims 1-5 is requested at the Examiners earliest convenience.

Applicant respectfully submits that claim 2 depends from claim 1 which also contains patentable subject matter, as discussed above, and thus respectfully submits that claim 2 is patentably distinct over the cited references as well.

Applicant respectfully submits that claim 4 depends from claim 3 which also contains patentable subject matter, as discussed above, and thus respectfully submits that claim 4 is patentably distinct over the cited references as well.

In light of the foregoing amendments and remarks, applicant submits that the 35 USC 103(a) rejections of claims 1-5 have been overcome. Reconsideration and allowance of claims 1-5 is therefore respectfully requested at the Examiner's earliest convenience. Although additional arguments could be made for the patentability of each of the claims, such arguments are believed unnecessary in view of the above discussion. The undersigned wishes to make it clear that not making such arguments at this time should not be construed as a concession or admission to any statement in the Office Action.

No amendment made herein was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim unless an argument has been made

herein that such amendment has been made to distinguish over a particular reference or combination of references.

Please contact the undersigned if there are any questions regarding this response or application.

Respectfully submitted,



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